

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES M. V. AMADEO,

No. C 06-5999 MHP (pr)

Plaintiff,

ORDER

v.

JOHN DAVEY; et al.,

Defendants.

Plaintiff has filed a motion for permission to file a motion for reconsideration and motion for reconsideration in which he asks the court to rethink the dismissal of some of his claims in the Order Of Service And Partial Dismissal. The motions are DENIED. (Docket # 10, # 16.) Plaintiff has not presented newly discovered evidence, the court did not commit clear error or make a manifestly unjust decision as dismissal of the dismissed claims was proper, and there has not been a change in controlling law. See School Dist. No. 11 v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993); Civil L.R. 7-9.

Plaintiff also has filed a motion for appointment of counsel to represent him in this action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See id. Neither of these factors is

dispositive and both must be viewed together before deciding on a request for counsel under section 1915(e)(1). Exceptional circumstances requiring the appointment of counsel are not evident. The motion for appointment of counsel is DENIED. (Docket # 16.)

IT IS SO ORDERED.

Dated: October 19, 2007


Marilyn Hall Patel
United States District Judge